

**INLAND WETLANDS COMMISSION  
REGULAR MEETING  
December 9, 2016**

**MEMBERS:**

Mary Davis, Chair  
Marcia Puc  
Tracy DeBarber  
Mark Bakstis  
Carlos Batista  
Jeffrey Litke, Alternate

**OTHER:**

Sue Goggin, Town Planner/ZEO/WEO  
Lori Rotella, Assistant ZEO  
Attorney Fitzpatrick  
Public - 7

**PUBLIC HEARING**

**6:30 P.M. CONTINUED PUBLIC HEARING:** The Wetlands Commission will hold a Public Hearing for activities considered significant associated with (IW # 16-11) for proposed mixed use development within the 100' Upland Review Area at 874 May Street, Applicant: Yeshiva Ohr Hachaim. **Public hearing opened 11/2/16; Must close by 12/7/16 unless extension granted by applicant.**

Mary Davis opened the 6:30 P.M. public hearing. Mark Bakstis recused himself from this application. Mary made Jeffrey Litke a regular voting member in place of Mark Bakstis. Mary went over the procedure that will be followed for the public hearing for the public that was present. Brian Baker, Civil 1, licensed engineer in the State of Connecticut, who prepared the plans for the project was present to represent the applicant. Brian read his response letter dated December 7, 2016 into the record. This was a response to Roman Mrozinski's report dated November 14, 2016. Brian demonstrated what a 7.8% slope looked like with a piece of cardboard in response to one of Roman's observations. Brian also noted which he felt was very important, that the three proposed extended detention shallow wetland basins will actually create 45,508 square feet of ponded wetlands habitat on site. There was a question from the commission asking why the soil resources were not included in the original application. Brian responded that it was in the original application for the site and was prepared by Eric Davidson, Soil Scientist. Mary questioned Brian's response where he stated the layout was carefully planned to keep all proposed buildings at least 100' from any wetlands and watercourses. She noted that on the plan from the entrance on May Street, approximately 500' will be going in within 40' into the buffer zone. Brian explained that that area was already cleared and the existing stone wall adjacent to the east will be protection from the roadway. They will put in storm water controls immediately adjacent to that road using infiltration trenches and raingardens. He further explained that the entrance had to go there for site line reasons. Looking towards the west there is a highpoint. You cannot come out onto the highpoint, it would not be safe. Brian explained that between the storm water design and the existing stone wall, the wetlands would be protected. Mary also had a concern with the height of the slopes. She mentioned that Wayne Zirolli was also concerned and suggested guide rails be depicted on the plan. Brian responded that that concern was from former comments from Wayne and that was already done. Carlos Batista was concerned with the

size of the pipe being installed in cul-de-sac 2. He asked if they were doing anything to eliminate a child walking through the pipe. Brian responded that they typically do not do anything with a standard storm water pipe and explained the benefits of leaving it open. Carlos also raised the concern of the neighbor's wells and any blasting that might be done. Brian explained the process if blasting is required; a permit from the Fire Marshall, a pre-blast survey with x number of feet within the blast site and then if blasting is very close to the neighbors, a survey of their house foundations and the wells. Brian has not seen this done in a while due to the way they use small charges in multiple locations. Attorney Fitzpatrick also went over the process and stated that what Brian indicated was correct. He also stated they have to notify the neighbors prior to blasting. Carlos also questioned how the applicant came up with the amount of approximately \$20,000,000 increase to the tax base. Brian explained what will be taxable income to the town in the project and what would be taken care of privately by the development and not a burden on the town. An example is the roads and trash pickup will not be on the town to take care of. Brian stated he was not prepared to answer this type of question at a wetlands meeting. Curt Jones made this statement last month. Attorney Fitzpatrick mentioned this would be better addressed by the applicant as they go through the land use process. Mary Davis gave a detailed explanation of vernal pools and their significance to the wetlands and habitats. She stated she has done a lot of research and is very familiar with them. She read an article, into the record, written by Attorney Janet Brooks. This publication was in the Habitat, a CACIWC newsletter, titled "Journey to the Legal Horizon" dated Winter 2014. Mary also read into the record parts of an article on Vernal Pool Wetlands published by RES, LLC (2/99, Updated: 1/23/00). Brian showed on the map where the vernal pools were located. There are two onsite and two offsite. The two offsite vernal pools are greater than 100' from the property. He also explained what type of drainage systems they will be using to protect the areas. Where ever possible they will infiltrate the water back into the ground. He doesn't see any negative impact on the vernal pools with the design proposed. The canopy within 100' of the pools will stay intact. Mary questioned how will they bring in machines and build homes and roads without any disturbance. Brian explained how the phasing will work. Each phase will be staked. The area will be flagged and staked by a licensed surveyor before any clearing is done. If the commission wishes, before any trees are cut, the commission can walk the property again. He also explained that large construction sites need to be phased. They will have to hire a third party professional engineer to review the plans and certify that the plans submitted meet the 2002 and 2004 guidelines and are sufficient for their general permit. There will also be an independent inspector in charge of the weekly inspections. There will always be multiple eyes on the construction at all times. Brian stated that he has no reservations that they will develop the site in a safe and efficient manner to protect the wetlands and there will be no destruction to the wetlands. The only wetlands impact is the 4,900 square feet in the area needed for the crossing that was unavoidable. They picked an area that was the smallest spot for the crossing which was over an intermittent water course. Brian explained, in detail, how the phasing will work. They cannot work on phases that are dependent on one another. They can, however, work on more than one phase at a time if they are independent of each other. Mary was concerned that they would start one phase and then move onto another and have a massive amount of earth being turned over during construction. She does not want to have all of the vegetation destroyed and then replanted. Brian explained the years of experience he has as well as the others with Civil 1 and stated that he stands on his merit. Marcia Puc asked which phases are dependent or independent of each other. Brian explained that Phase 1 drains into Phase 2 and then into Phase 3. Here they will do one phase and have it stabilized

before moving to the next. Phase 1, 2 and 3 are independent of Phase 4. Phase 4 is dependent on Phase 5. They cannot get into Phase 7 until the road is built and the work is done on Phases 4 and 5. Phases 5 and 6 go into the same basin and will have to be done separately. You can have 5 acres drained into a basin at one time, which is allowed by DEEP. Mary questioned infrastructure phasing. Brian explained infrastructure phasing and utilities to the commission. He also stated that the contractor doing the work will decide on how the clearing will be done, but they will meet all of the criteria the DEEP requires. Mary opened the public hearing to the public. Clista Michalek, 241 Maple Hill Road, stated that a lot of work is being done to protect the wetlands. She is concerned with the wildlife. She stated that she reached out to the owner previously and has been documenting the property for 14 years. There is a lot of activity on this parcel. She stated it will be devastating to a lot of wildlife that is dependent on the wetlands. She explained that there is a complete self-sustained eco system relying on these wetlands. Clista stated it will be devastating to see the woods taken down. She is also concerned with excessive use of chemicals. She feels there will be no regulating done once the houses are built. Clista submitted, for the record, a letter she wrote on her observation over the years of the wildlife on the property. Hank LaRose, 954 May Street, was concerned with any possible blasting. He also agreed with Clista Michalek's concerns. He also asked if they will be allowed to do any stone crushing on site like LoRusso did on the development across the street from him. He stated he had to power wash his house twice a year during that time instead of once every couple of years. He was also concerned about the density of the development compared to the size of his lot and his neighbors. He would like to see the lots in the development made bigger to keep in line with the rest of the area. He has a concern that this will have an adverse effect when he goes to sell his home in approximately 5 years. Brian Baker, Civil 1, explained that if there were to be any blasting, it will be very minimal. He also stated that he is not looking for a special permit for earth excavation or blasting. He only mentioned it in case there is rock in the area. Hank LoRusso questioned how long will it take to complete the project. Brian stated he client would like to open the school by September 2017 which is Phase 1. Depending on the absorption rate, it should take 2 – 3 years to be done. Melissa Leonard, 450 Gunntown Road, asked if there was a standard water shed for vernal pools. Mary stated there is no standard, just at least 100'. Brian explained that Naugatuck has a 100' regulated area which is not a buffer. You are allowed to do construction there as long as you can prove you are being protective of the area. There is 100' of forested area around the vernal pool. Melissa Leonard questioned how the water in the storm water basin is treated. Brian explained how this will work. He also stated that 90% of the rain storms in Connecticut are 1" or less. The dirty water comes in; it is cleaned and pushed out into the pond through vegetation. It is maintained annually if there is a high level of sediment. If there is 6" or less then no work is required. The berms are cleared of trees intermittently. Melissa asked if there is any chance that the paved surfaces could be permeable instead. Attorney Fitzpatrick stated that that is a development issue which will go before Planning and Zoning. Mary wanted to let everyone know that the commission appreciated everyone coming out to let them know their concerns. Barbara Slawski, Bozrah CT, stated she was part owner of the property with her sister Joan Quinn. She addressed some of the comments. As for the development not being diversified, she mentioned several segregated communities in many towns in Connecticut and said it is not a bad thing. As for the comments of the woods being taken away, she stated that the neighbors could have banded together to purchase the parcel themselves. She has had to call the police many times for people trespassing with their ATV's and hunters. There have found many deer stands on the parcel. The horse farm adjacent to the property used to take their

paying customers on trail rides through the property. Barbara stated she could guarantee that her mother never gave anyone permission to take photos on the property. Her mother was always nervous about people in the woods. Barbara stated that they had several other offers on the property: a sand and gravel pit, a hunting and trapping lodge and a housing development. They chose what they thought was the nicest and best offer for the area. She also stated that prior to putting the land on the market, they met with the Mayor and he had no interest in that parcel. As for the wildlife, there are many acres across the street that they can go to. She also stated that is water company property and won't be developed. Barbara said you cannot stop a project for wildlife.

Meeting recessed at 8:32

Meeting reconvened at 8:43

Mark Bakstis, 10 Pinewood Crossing South, question why it was stated multiple times that there will be no work performed with 100' of the regulated area, but the application states that there will be 793 cubic yards of fill to be installed in the 100' area. He would like clarification. Also the applicant was going to eliminate 4,900 square feet of inland wetlands by bringing in 627 cubic yards of fill. He also had questions regarding the location of the vernal pools and no work to be done within 100' of them yet work will be done within 40'. Due to these discrepancies, Mark is requesting that the public hearing be extended to clarify what is proposed and what is being said. He also mentioned you cannot have a school in an R-15 zone. He does not feel that the project is harmonious with the abutting neighbors. In his opinion, the proposed subdivision is too dense for the area and will have an adverse impact on the wetlands. Brian Baker addressed Mark's concern with regards to working in the 100' regulated area. He stated that 74% of the area is being protected and 26% is being impacted. In the actual wetlands, 2% of the area will be affected due to the wetlands crossing. 98% of the wetlands will not be impacted. He also stated that the houses along Maple Hill Road that are in the R-15 zone and are oversized for that area. He also stated that AutoCAD does the program to get the layout that the commission and the applicant are comfortable with for the development. They came in with a plan they felt would be acceptable to the Inland Wetlands Commission. It does meet all of DEEP's criteria for their erosion and sediment control guidelines. There were no more public comments. Mary requested that the applicant supply a map showing the vernal pools. The commission has a concern with the vernal pools. She also stated that the applicant did not provide an alternate plan to this plan, since the commission found this to be a significant activity. It was suggested that maybe they take out some housing to make it less dense or take out any encroachment within the buffer area. Mary asked since the CGS regulates vernal pools and there has been no expert opinion on this, she would like a vernal pool environmental expert to attend the next meeting to help with this issue. She feels these are the reasons they should extend the public hearing. Marcia feels since they only received Roman Mrozinski's report a couple of days ago, they should have more time to review it. Tracy DeBarber also agrees with Marcia. Brian Baker feels they gave a proposal that was feasible and that protects the wetlands. Mary requested an extension until next month. She would also like a map showing all 4 vernal pools. Brian stated they can give an approximate location. Mary stated you will not know for sure until spring. Attorney Fitzpatrick explained that you cannot ask the developer to wait until spring to approve the application. It is appropriate to ask for the location of the vernal pools. Mary stated that the commission is not saying that they don't like the project. Brian Baker requested a 30 day extension until the next meeting on January 4, 2017. The commission agreed that they would like to try and get an expert on vernal

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pools for that meeting. Hank LaRose, 954 May Street, asked what percentage constitutes a negative impact. Brian stated it is his opinion and he has 20 years' experience. He also stated he takes great pride in what he does. Brian gave the commission a new map with a few modifications, the new access drive and modifications to the catch basin. He had 4 sets of plans with him. Brian will supply the commission with 6 smaller sets of the plan and also an electronic version of the plan.

The public hearing was continued until Wednesday, January 4, 2017 at 6:30 p.m.

**REGULAR MEETING**

1. Mary Davis called this meeting to order at 6:00 P.M. Mary noted there was a quorum. Mary opened the meeting with the Pledge of Allegiance.

2. Executive session with Borough Attorney.  
There was none.

3. Public comment  
There was none.

4. **OLD BUSINESS**

- A. Long Meadow Pond Brook ERT Study

There was nothing new to report.

- B. Commission discussion regarding an existing Commercial Outdoor Automobile Storage (IW#14-01) located at the Risdon Property, Arch Street, Scott Road, Andrew Avenue and Rubber Avenue; Applicant: A Better Way Wholesale Autos, Inc.

Susan Goggin stated that everything looks good. She also noted that the engineer submitted figures for the wetland development fees for 18 & 30 Raytkwich Road. Susan will let the commission know when they are received.

- C. Commission discussion/decision regarding application for proposed mixed use development within the 100' Upland Review Area for property at 874 May Street (IW #16-11), Applicant: Yeshiva Or Hachiman

There was no discussion.

5. **NEW BUSINESS**

- A. Additional items require a 2/3 vote of the Commission.

There was none.

6. **CORRESPONDENCE**

There was none.

7. **WEO REPORT**

- A. Naugatuck HS Renovation (IW#12-04) – water quality test results

Susan stated no test results have been received yet. She is hoping they will be in for the January 2017 meeting.

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8. **REVIEW/APPROVAL** of the November 2, 2016 Public Hearing and Meeting Minutes and the November 9, 2016 Special Public Hearing and Meeting Minutes.

**VOTED:** Unanimously on a motion by Tracy DeBarber and seconded by Marcia Puc to **APPROVE** the November 2, 2016 public hearing and meeting minutes with corrections.

**VOTED: 4-0-1** on a motion by Carlos Batista and seconded by Tracy DeBarber to **APPROVE** the November 9, 2016 special public hearing and meeting minutes as written.

**FOR**

Mary Davis  
Marcia Puc  
Tracy DeBarber  
Carlos Batista

**AGAINST**

**ABSTAIN**

Mark Bakstis

9. **ADMINISTRATIVE BUSINESS**

Mary Davis explained to the commission that they will need to vote on a new secretary to replace Sally MacKenzie. Mary asked if Tracy DeBarber would fill the position. Tracy accepted.

**VOTED:** Unanimously on a motion by Mary Davis and seconded by Marcia Puc to **VOTE** Tracy DeBarber in as new secretary for the Inland Wetlands Commission.

Meeting recessed at 6:15 p.m.

Meeting reconvened at 6:30 p.m.

Carlos Batista brought up the idea of the commission having a data portal to receive agendas, plans, etc. instead of having packages mailed out to them each month. There was a short discussion. Carlos requested that item be added to the January 2017 agenda.

10. **ADJOURNMENT**

**VOTED:** Unanimously on a motion by Carlos Batista and seconded by Tracy DeBarber to **ADJOURN** the meeting at 9:17 P.M.

Respectfully Submitted,

Tracy DeBarber, Secretary /lr